

(b) *Submittal of participant information to CMS and the State.* The PACE organization must submit participant information to CMS and the State administering agency, in accordance with established procedures.

(c) *Changes in enrollment agreement information.* If there are changes in the enrollment agreement information at any time during the participant's enrollment, the PACE organization must meet the following requirements:

(1) Give an updated copy of the information to the participant.

(2) Explain the changes to the participant and his or her representative or caregiver in a manner they understand.

§ 460.158 Effective date of enrollment.

A participant's enrollment in the program is effective on the first day of the calendar month following the date the PACE organization receives the signed enrollment agreement.

§ 460.160 Continuation of enrollment.

(a) *Duration of enrollment.* Enrollment continues until the participant's death, regardless of changes in health status, unless either of the following actions occur:

(1) The participant voluntarily disenrolls.

(2) The participant is involuntarily disenrolled, as described in § 460.164.

(b) *Annual recertification requirement.* At least annually, the State administering agency must reevaluate whether a participant needs the level of care required under the State Medicaid plan for coverage of nursing facility services.

(1) *Waiver of annual requirement.* (i) The State administering agency may permanently waive the annual recertification requirement for a participant if it determines that there is no reasonable expectation of improvement or significant change in the participant's condition because of the severity of a chronic condition or the degree of impairment of functional capacity.

(ii) The PACE organization must retain in the participant's medical record the documentation of the reason for waiving the annual recertification requirement.

(2) *Deemed continued eligibility.* If the State administering agency determines

that a PACE participant no longer meets the State Medicaid nursing facility level of care requirements, the participant may be deemed to continue to be eligible for the PACE program until the next annual reevaluation, if, in the absence of continued coverage under this program, the participant reasonably would be expected to meet the nursing facility level of care requirement within the next 6 months.

(3) *Continued eligibility criteria.* (i) The State administering agency, must establish criteria to use in making the determination of "deemed continued eligibility." The State administering agency, in consultation with the PACE organization, makes a determination of deemed continued eligibility based on a review of the participant's medical record and plan of care. These criteria must be applied in reviewing the participant's medical record and plan of care.

(ii) The criteria used to make the determination of continued eligibility must be specified in the program agreement.

[64 FR 66279, Nov. 24, 1999, as amended at 71 FR 71337, Dec. 8, 2006]

§ 460.162 Voluntary disenrollment.

A PACE participant may voluntarily disenroll from the program without cause at any time.

§ 460.164 Involuntary disenrollment.

(a) *Reasons for involuntary disenrollment.* A participant may be involuntarily disenrolled for any of the following reasons:

(1) The participant fails to pay, or to make satisfactory arrangements to pay, any premium due the PACE organization after a 30-day grace period.

(2) The participant engages in disruptive or threatening behavior, as described in paragraph (b) of this section.

(3) The participant moves out of the PACE program service area or is out of the service area for more than 30 consecutive days, unless the PACE organization agrees to a longer absence due to extenuating circumstances.

(4) The participant is determined to no longer meet the State Medicaid nursing facility level of care requirements and is not deemed eligible.

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(5) The PACE program agreement with CMS and the State administering agency is not renewed or is terminated.

(6) The PACE organization is unable to offer health care services due to the loss of State licenses or contracts with outside providers.

(b) *Disruptive or threatening behavior.* For purposes of this section, a participant who engages in disruptive or threatening behavior refers to a participant who exhibits either of the following:

(1) A participant whose behavior jeopardizes his or her health or safety, or the safety of others; or

(2) A participant with decision-making capacity who consistently refuses to comply with his or her individual plan of care or the terms of the PACE enrollment agreement.

(c) *Documentation of disruptive or threatening behavior.* If a PACE organization proposes to disenroll a participant who is disruptive or threatening, the organization must document the following information in the participant's medical record:

(1) The reasons for proposing to disenroll the participant.

(2) All efforts to remedy the situation.

(d) *Noncompliant behavior.* (1) A PACE organization may not disenroll a PACE participant on the grounds that the participant has engaged in noncompliant behavior if the behavior is related to a mental or physical condition of the participant, unless the participant's behavior jeopardizes his or her health or safety, or the safety of others.

(2) For purposes of this section, noncompliant behavior includes repeated noncompliance with medical advice and repeated failure to keep appointments.

(e) *State administering agency review and final determination.* Before an involuntary disenrollment is effective, the State administering agency must review it and determine in a timely manner that the PACE organization has adequately documented acceptable grounds for disenrollment.

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§ 460.166 Effective date of disenrollment.

(a) In disenrolling a participant, the PACE organization must take the following actions:

(1) Use the most expedient process allowed under Medicare and Medicaid procedures, as set forth in the PACE program agreement.

(2) Coordinate the disenrollment date between Medicare and Medicaid (for a participant who is eligible for both Medicare and Medicaid).

(3) Give reasonable advance notice to the participant.

(b) Until the date enrollment is terminated, the following requirements must be met:

(1) PACE participants must continue to use PACE organization services and remain liable for any premiums.

(2) The PACE organization must continue to furnish all needed services.

§ 460.168 Reinstatement in other Medicare and Medicaid programs.

To facilitate a participant's reinstatement in other Medicare and Medicaid programs after disenrollment, the PACE organization must do the following:

(a) Make appropriate referrals and ensure medical records are made available to new providers in a timely manner.

(b) Work with CMS and the State administering agency to reinstate the participant in other Medicare and Medicaid programs for which the participant is eligible.

§ 460.170 Reinstatement in PACE.

(a) A previously disenrolled participant may be reinstated in a PACE program.

(b) If the reason for disenrollment is failure to pay the premium and the participant pays the premium before the effective date of disenrollment, the participant is reinstated in the PACE program with no break in coverage.

§ 460.172 Documentation of disenrollment.

A PACE organization must meet the following requirements:

(a) Have a procedure in place to document the reasons for all voluntary and involuntary disenrollments.